

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

RANDY L. CRUZ,

Plaintiff,

UNITED HEALTHCARE OF WISCONSIN,
INCORPORATED,
A Domestic Corporation,
BLUE CROSS BLUE SHIELD OF WISCONSIN,
A Domestic Corporation,
XAVIER BECERRA, SECRETARY OF THE
UNITED STATES DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
A Government Agency, and
STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,
A Foreign Corporation,

Case No.

Involuntary Plaintiffs,

vs.

CHEROKEE INSURANCE COMPANY,
A Foreign Corporation,
K&B TRANSPORTATION, INCORPORATED,
DAIMLER TRUST,
ABC INSURANCE COMPANY, and
ALLEN GRANT,

Defendants.

NOTICE OF REMOVAL

Defendants, Cherokee Insurance Company, K&B Transportation, Incorporated, and Allen Grant, by and through their counsel, with the consent and joinder of the other served defendant, Daimler Trust, hereby submit their Notice of

Removal, pursuant to 28 U.S.C. §§ 1441 and 1446, and in support of the removal of this action from the Circuit Court of Rock County, Wisconsin, to the United States District Court for the Western District of Wisconsin, state as follows:

1. This action was initiated by the plaintiff, Randy L. Cruz, in the Circuit Court of Rock County, Wisconsin, and is currently pending in said Court as Civil Action No. 2022-CV-000462.

2. This action was filed by the plaintiff on June 7, 2022. The defendant, Cherokee Insurance Company, was served by a process server with a copy of the Summons and Complaint on June 29, 2022. The defendant, K&B Transportation, Incorporated, was served by a process server with a copy of the Summons and Complaint on July 18, 2022. The defendant, Daimler Trust, was served by a process server with a copy of the Summons and Complaint on July 27, 2022. The defendant, Allen Grant, was served by a process server with a copy of the Summons and Complaint on July 13, 2022. A copy of the Summons and Complaint is attached to this Notice as Exhibit A.

3. Plaintiff also named as involuntary plaintiffs, United Healthcare of Wisconsin, Incorporated, Blue Cross Blue Shield of Wisconsin, Xavier Becerra, Secretary of the United States Department of Health and Human Services, and State Farm Mutual Automobile Insurance Company, which are nominal parties with statutory subrogation interests. *Shaw v. Dow Brands, Inc.*, 994 F.2d 364, 369 (7th Cir. 1993). As nominal parties, the involuntary plaintiffs are not real parties in

interest and do not need to consent to the removal of this action. *Vandervest v. Wisconsin Cent. Ltd.*, 936 F. Supp. 601, 605 (E.D. Wis. 1996).

4. Plaintiff also named ABC Insurance Company as an additional defendant. ABC Insurance Company is a party identified and/or sued under a fictitious name and its citizenship shall be disregarded for purposes of removal pursuant to 28 U.S.C. § 1441(a).

5. On June 7, 2022, the plaintiff filed his Jury Demand. A copy of the Jury Demand is attached to this Notice as Exhibit B.

6. On July 13, 2022, the defendants, Cherokee Insurance Company, K&B Transportation, Incorporated, and Allen Grant, filed their Notice of Appearance. A copy of the Notice of Appearance is attached to this Notice as Exhibit C.

7. On July 18, 2022, the involuntary plaintiff, Blue Cross Blue Shield of Wisconsin, filed its Notice of Appearance. A copy of the Notice of Appearance is attached to this Notice as Exhibit D.

8. On July 26, 2022, the involuntary plaintiff, Blue Cross Blue Shield of Wisconsin, filed a Claim and Cross-Claim. A copy of the Claim and Cross-Claim is attached to this Notice as Exhibit E.

9. Defendants have not been served with any process, pleadings or orders in this action, and no other process, pleadings or orders have been filed in this action other than the documents attached hereto as Exhibits A, B, C, D, and E.

10. This notice is timely filed pursuant to 28 U.S.C. § 1446(b)(3), in that thirty (30) days have not expired since July 18, 2022, the date on which the

defendant, K&B Transportation, Incorporated, was served with a copy of the Summons and Complaint.

11. The plaintiff, Randy L. Cruz, is an adult citizen of Waukesha, Wisconsin. The defendant, Cherokee Insurance Company, is a Michigan insurance company having its principal place of business in Sterling Heights, Michigan. The defendant, K&B Transportation, Incorporated, is an Iowa corporation having its principal place of business in South Sioux City, Nebraska. The defendant, Daimler Trust, is a Delaware statutory trust having its principal place of business in Farmington Hills, Michigan. The defendant, Allen Grant, is an adult citizen of Houston, Texas.

12. Based upon the nature of the allegations in the Complaint, the matter in controversy in this action exceeds the sum of \$75,000, exclusive of interest and costs.

13. This court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332 because the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs, and is between individuals, corporations, and a statutory trust deemed citizens of different states.

WHEREFORE, the defendants, Cherokee Insurance Company, K&B Transportation, Incorporated, and Allen Grant, with the consent and joinder of the other served defendant, Daimler Trust, respectfully request that this case be removed from the Rock County Circuit Court of Wisconsin to the United States District Court for the Western District of Wisconsin.

Dated: July 28, 2022.

s/Steven F. Stanaszak

Steven F. Stanaszak

State Bar No. 1022255

Michael K. Roberts

State Bar No. 1085197

Attorneys for Defendants, Cherokee

Insurance Company, K&B Transportation,

Incorporated, and Allen Grant

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Defendant, Daimler Trust, consents to and joins in this Notice of Removal.

Dated: July 28, 2022.

DAIMLER TRUST

s/Jeffrey Fleishmann

Jeffrey Fleishmann, by Daimler Truck
Financial Services USA LLC, attorney-in-
fact

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